
Award
NASD Dispute Resolution

In the Matter of the Arbitration Between:

Name of the Claimant
Wachovia Securities, LLC

Case Number: 05-00932

Name of the Respondent
Mark Silva

Hearing Site: Atlanta, Georgia

Nature of the Dispute: Member vs. Associated Person.

REPRESENTATION OF PARTIES

For Wachovia Securities, LLC, hereinafter referred to as "Claimant": Renan I. Sugarman, Esq., Renan Sugarman, P.C., Chicago, Illinois.

Mark Silva, hereinafter referred to as "Respondent", appeared pro se.

CASE INFORMATION

Statement of Claim filed on or about: February 22, 2005.

Claimant signed but did not date the Uniform Submission Agreement.

Statement of Answer and Counterclaim filed by Respondent on or about: April 13, 2005.

Respondent signed the Uniform Submission Agreement: April 13, 2005.

Response to Counterclaim filed by Claimant on or about: April 21, 2005.

CASE SUMMARY

Claimant asserted a claim for breach of promissory note. The cause of action relates to Respondent's former employment with Claimant and the Promissory Note dated October 10, 2001, entered into between Claimant and Respondent.

Unless specifically admitted in his Answer, Respondent denied the allegations made in the Statement of Claim and asserted various defenses. Furthermore, in his Counterclaim, Respondent asserted that Claimant did not support his efforts to enforce Claimant's Anti-Harassment policy, created an unfavorable work environment and retaliated against him by relegating him from Branch Manager to Senior Broker in violation of Claimant's Anti-Harassment policy. In addition, Respondent asserted that Claimant's employees made false statements about him that injured his reputation in the industry and that Claimant's management team failed to respond to concerns outlined in his resignation letter.

Unless specifically admitted in its Response, Claimant denied the allegations made in Respondent's Counterclaim and asserted various defenses.

RELIEF REQUESTED

Claimant requested compensatory damages in the amount of \$75,000.00, pre-award interest accrued from January 25, 2003 through January 31, 2005 at a per diem rate of \$10.27 in the amount of \$7,579.26, plus additional interest at a per diem rate of \$10.27 accruing from January 31, 2005 until the date of payment, plus attorney's fees and costs. In addition, Claimant requested that Respondent's Counterclaim be dismissed and that Claimant be awarded attorney's fees for defending the Counterclaim.

Respondent requested that the Panel release him from his obligation to repay the Promissory Note and award him compensatory damages in the amount of \$700,000.00, punitive damages in the amount of \$100,000.00, and costs, fees and expenses incurred in connection with this proceeding.

OTHER ISSUES CONSIDERED AND DECIDED

The parties have agreed that the Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

With respect to Claimant's claim, Respondent is liable and shall pay to Claimant compensatory damages in the amount of \$75,000.00, plus interest in the amount of \$9,304.62, calculated at the per diem rate of \$10.27 from January 25, 2003 through July 19, 2005. Additionally, pursuant to the terms of the Promissory Note, Respondent is liable and shall reimburse Claimant for Claimant's attorneys' fees in the amount of \$25,000.00 and for Claimant's costs in the amount of \$3,000.00. Finally, Respondent is liable and shall reimburse Claimant the sum of \$1,000.00, representing the non-refundable claim filing fee paid by Claimant to NASD Dispute Resolution.

With respect to Respondent's counterclaim, Claimant is liable and shall pay to Respondent compensatory damages in the amount of \$270,000.00.

Any and all claims for relief not specifically addressed herein, including Respondent's request for punitive damages, are denied.

FEES

Pursuant to the NASD Code of Arbitration Procedure (the "Code"), the following fees are assessed:

Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee	= \$1,000.00
Counterclaim filing fee	= \$ 375.00

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. In this matter, the member firm Wachovia Securities, LLC is a party.

Member surcharge	= \$1,100.00
Pre-hearing process fee	= \$ 750.00
Hearing process fee	= \$4,000.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

No adjournments were requested in this matter.

Three-Day Cancellation Fees

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

No three-day cancellation fees were incurred in this matter.

Injunctive Relief Fees

Injunctive relief fees are assessed to each member or associated person who files for a temporary injunction in court. Parties in these cases are also assessed arbitrator travel expenses and costs when an arbitrator is required to travel outside his or her hearing location and additional arbitrator honoraria for the hearing for permanent injunction. These fees, except the injunctive relief surcharge, are assessed equally against each party unless otherwise directed by the Panel.

No injunctive relief fees were incurred in this matter.

Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrators, including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00	= \$2,400.00
Pre-hearing conferences: June 30, 2005 2 sessions	
Five (5) Hearing sessions @ \$1,200.00	= \$6,000.00
Hearing Dates: July 19, 2005 2 sessions	
July 20, 2005 3 sessions	
Total Forum Fees	= \$8,400.00

The Panel has assessed \$1,200.00 of the forum fees to Claimant.
The Panel has assessed \$7,200.00 of the forum fees to Respondent.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to: additional copies of arbitrator awards; copies of audio transcripts; retrieval of documents from archives; interpreters; and, security.

No administrative costs were incurred in this matter.

Fee Summary

Claimant is solely liable for:

Initial Filing Fee	= \$1,000.00
Member Fees	= \$5,850.00
<u>Forum Fees</u>	<u>= \$1,200.00</u>
Total Fees	= \$8,050.00
<u>Less payments</u>	<u>= \$3,600.00</u>
Balance Due NASD Dispute Resolution	= \$4,450.00

Respondent is solely liable for:

Counterclaim Filing Fee	= \$ 375.00
<u>Forum Fees</u>	<u>= \$7,200.00</u>
Total Fees	= \$7,575.00
<u>Less payments</u>	<u>= \$1,575.00</u>
Balance Due NASD Dispute Resolution	= \$6,000.00

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

ARBITRATION PANEL

Judith Stilz Ogden, JD	-	Public Arbitrator, Presiding Chairperson
John D. Mattingly, JD	-	Public Arbitrator
Cortes J. Bicking	-	Non-Public Arbitrator

Concurring Arbitrators' Signatures

/s/

07/29/2005

Judith Stilz Ogden, JD
Public Arbitrator, Presiding Chairperson

Signature Date

/s/

07/26/2005

John D. Mattingly, JD
Public Arbitrator

Signature Date

/s/

07/27/2005

Cortes J. Bicking
Non-Public Arbitrator


Signature Date

07/29/2005

Date of Service (For NASD Dispute Resolution office use only)

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Public Arbitrator, Presiding Chairperson


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John D. Mattingly, JD
Public Arbitrator

Signature Date

Cortes J. Bicking
Non-Public Arbitrator

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Public Arbitrator, Presiding Chairperson



John D. Mattingly, JD
Public Arbitrator

Signature Date

7-26-05

Signature Date

Cortes J. Bicking
Non-Public Arbitrator

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7/27/05
Signature Date

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